

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.4403 OF 2002.

The State of Maharashtra & Ors....
Petitioners.
V/s
Keru Laxman Tulve.... Respondents.

Mr.N.P. Deshpande, AGP for the State-petitioners.

Mr.Vikram Pai for the respondent.

CORAM: V.G. PALSHIKAR
AND
R.C. CHAVAN, JJ.
26.7.2005

PC:

By this petition the petitioner-Government of Maharashtra has challenged the order passed by the Maharashtra Administrative Tribunal. The Tribunal by its impugned order considered the entire aspect of promotions in the office of the respondent-establishment and held that the petitioner before the Tribunal, present respondent was entitled to grant of deemed date of promotion as before the order by the Tribunal was passed. The original petitioner, present respondent, had factually been promoted. The order of the Tribunal reads thus:

“The exercise in the light of the above will have to be done by the respondents who shall also give seniority to the applicant as above, but in any case after Smt. Bhandare who was admittedly senior to him in Scheduled Caste Category. If the present applicant is not yet promoted to the post of Superintendent he be promoted even by

creating a supernumerary post or even if promoted but well beyond the point and year he would in fact have been entitled to, then he shall be given deemed date of promotion and seniority by placing him at the point which he was entitled to, but without backwages.”

2. All that has been ordered by the Tribunal in the present case is therefore that if the petitioner employee is promoted on day subsequent then he be given deemed date of promotion and seniority by placing him at point which he was entitled to without backwages. What has been done by the Tribunal is petitioner before it is given back date of promotion only notionally. All that has been done is the present respondent has factually been promoted at later on date. There is no question of the quota meant for scheduled caste candidates in the establishment of respondent standing increased even notionally by grant of promotion to the original petitioner. All that is granted to the original petitioner by the Tribunal is a deemed date of promotion. Necessary result would be the petitioner will have to be considered as one promoted in the cadre of Superintendent on a date on which he was liable to be promoted and the difference between the two days i.e. deemed date and factual date is to be taken into consideration for the purposes of calculating the emoluments that the petitioner would get at the time of retirement. The only benefit conferred by the Tribunal therefore is a fixational grant date and seniority to enable the employee to get higher rate of pension. That being the position and there being factually no increased quota of scheduled caste candidates in the establishment of respondents, we see no reason to interfere. Petition dismissed.

3. In view of the fact that petition is dismissed interim order stands

vacated.